

JEFFERSON COUNTY COMMISSIONERS
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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 20, 2006**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Matt Johnson, County Attorney; Tom Ramirez, Juvenile Probation; Bill Lloyd, Great West Engineering; Jan Anderson and Sarah Swan, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Ellen Rae Thiel, Ron Pearson

MINUTES

Commissioner Weber moved to accept the minutes of June 13. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of A101 noting receipt of PILT payment in the amount of \$636,747.00.
Receipt of Treasurer's cash report for May.
Receipt of gas tax payment amount for FY 06-07 - \$99,656.40.
Receipt of speed study results for 282 between Montana City and South Hills Road.

CALENDAR REVIEW

6/21 Review roads in Clancy area
6/22 Meet with Extension regarding budget - 2:00
Meet with JLDC - 3:00
Health Board - 6:30
6/26 Golden Triangle - Great Falls

COMMISSION REPORTS

O.T. MINING

Commissioner Lythgoe reported that the Commission met with O.T. Mining to discuss the permitting process. There is not a lot that the Commission can do for them at this time.

NORTH JEFFERSON COUNTY ZONING COMMISSION

Commissioner Lythgoe reported that the zoning commission had their third meeting on June 20, 2006 minutes.wpd

Thursday, and they finally have some parameters. They are hoping to get some work done at the next meeting.

CTAC

Commissioner Weber reported that the new owners of Golden Sunlight Mine were at the CTAC meeting. They have agreed to two more exploration projects, which is good news.

CORRESPONDENCE

A letter from Headwaters was presented. It is time to complete the loan to Mountain States Driveline. The documents were signed.

A detention service agreement between Community Counseling and Correctional Services and Jefferson County was presented for signature.

The Commission received a letter of resignation from the Weed Board from Casey Klepzig. Commissioner Lythgoe stated that the vacancy needs to be advertised. Commissioner Notbohm stated that they might want to hold off on that. He spoke with Cory Fitzgerald, and he is going to try to convince Casey to stay on the board.

Commissioner Lythgoe presented an agreement between the Forest Service, DEQ and Jefferson County. He stated that he needs to talk with Ben before he signs the agreement. The person from DEQ and Ben have been working together well. They did have some problems with the Forest Service, but these have been worked out. The agreement needs to be signed so that they can start on the clean-up. Commissioner Notbohm stated that Matt should look the agreement over. Commissioner Lythgoe stated that this is a good idea; however, if the DEQ and Ben are comfortable with it, he is too.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

REQUEST FOR MATCHING FUNDS FOR JUVENILE GRANTS - TOM RAMIREZ

Tom Ramirez stated that he is coming before the Commission to request approximately \$1,000.00 for matching funds for a grant. He noted that he doesn't think that he will get that much grant money, as there is a big fight for the money available. They have asked that they be allowed to use prevention funds for grant match, but have been told no. Tom said that his department is busy; they are doing an education enhancement, after-school program, as well as parenting classes. Their funding has been steadily dropping, but their numbers have also been dropping. They are taking a harder stance on first-time offenders, and seeing a lower reoccurrence. Commissioner Lythgoe stated that they will put this in the budget line-items to consider. Tom stated that he will submit a formal request when he submits his grant application.

RECEIVE PETITION TO ABANDON ROAD IN BASIN TOWNSITE AND APPOINT VIEWER TO VIEW PETITIONED ROAD

Commissioner Lythgoe stated that the Commission has received a petition from Mike Gilles to

abandon a portion of road in Basin. Bonnie Ramey, the Clerk and Recorder has verified the petition. Commissioner Notbohm was appointed to view the road.

DISCUSS AND DECIDE ON RESPONSE TO CITY OF HELENA PROPOSAL TO FORM CITY-COUNTY PLANNING BOARD

Matt Johnson, County Attorney, presented a map and stated that the City of Helena has purchased several parcels in Jefferson County. The map showed the location of the parcels, as well as the boundary of the city limits and the county line. Matt stated that the City of Helena proposes to form a planning board to deal with these parcels. However, the City of Helena cannot have a planning board in Jefferson County unless the parcels are in their municipality, which they are not. Because of this, they are just like any other landowner and have to abide by the regulations and zoning of the county where the property is located. The property is also not contiguous with the City of Helena, so there is no ability to annex. He would advise, as those parcels were never annexed into the municipality of the City of Helena, that there be no planning board. Also, the Attorney General has not come back with a decision yet regarding annexation. He would also suggest that someone watch the agenda of the Helena City Council.

Harold suggested that the Commission doesn't just say no outright, as this could give the go-ahead to the city planning board to annex. At this point these parcels are not contiguous with the City of Helena. If at some point they are, that would be the time to consider a city-county planning board.

Commissioner Weber stated that the letter needs to point out that the parcels are in a location that is already zoned and they are not a municipality in our county. It should also point out the fact that the land was bought for open space. Harold stated another thing in our favor is that we have a jurisdictional map that shows these parcels. Matt stated that he doesn't want to tell the City of Helena legally what they should already know. He will keep the letter simple.

Commissioner Notbohm asked if there is any indication of when the City of Helena will be expanded to our county line. Commissioner Lythgoe stated that it doesn't make sense that they would make the request to have a city-county planning board for two dinky parcels designated as open space. He questioned the purpose of this. Commissioner Notbohm asked if Jefferson County would have a one-third vote. Matt asked a one-third vote on what - a subdivision on a parcel that is open space and can't have a subdivision? This is just a game.

Commissioner Notbohm moved to take Matt's proposal to write a letter stating our position regarding the city-county planning board. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON COMMISSION'S RESPONSE TO LIBRARY BOARD'S ILLEGAL ACTION

Matt stated that this is a non-issue; the Library Board is going to re-agendize the item in question and deal with it at the next meeting. Commissioner Lythgoe stated that it may no longer be an

issue for this issue, but this is an on-going problem. The Library Board ignores the hiring policy, open meeting law, etc., and he is getting tired of it. Commissioner Weber stated that the reason he brought this issue forward, is that the actual issue - changing the main library from Boulder to Whitehall - may be insignificant to some, but very important to others. He has gotten feedback from the public. The Commission adopted two resolutions in 2003 regarding the posting places for agendas and governing public participation. It is his understanding that it is an on-going policy with the Library Board to, at the beginning of a meeting, add items to the agenda to be acted on at that time. The Commission needs to write a letter and reiterate what needs to be done.

Matt stated that he spoke with Glenna Waltee that morning and let her know that just adding an item to an agenda is not going to work, and discussed the policy. Glenna stated that they didn't know, and that they will do better. Commissioner Lythgoe stated that he has heard this before. Commissioner Notbohm agreed. When he was liaison to the Library Board, he went to several meetings and it was clear that he wasn't wanted or needed there. The Commission has no say and the board doesn't feel that they have to follow the rules of government.

Jan Anderson, editor of the *Boulder Monitor* and *Jefferson County Courier* presented a letter to the Commission, which she then read. (On file in the Clerk and Recorder's office.) She outlined some problems that she has had, and made some recommendations for and requests of the Commission. Commissioner Notbohm stated that since this has been going on for years, not just months, they should consider taking over the Library Board and re-organizing it. Commissioner Weber noted that he doesn't believe that the Commission, per statute, has the ability to take over the board. Matt stated that the Commission can't do anything at this meeting, but there could be something that they can do. Commissioner Lythgoe asked if they could remove existing members. Matt answered that they might be able to remove for cause; he will research.

Commissioner Lythgoe stated that he agrees with Commissioner Notbohm; this is very frustrating. He feels that as a first step, they should adopt the recommendations in Jan's letter and, with her permission, send the letter in its entirety to the Library Board members.

Commissioner Weber stated that he feels that the Library Board should rescind their decision at the next meeting and reagendaize the item for the following meeting; they should not do both at the same meeting. As for Jan's request that the Commission instruct the Library Board to get a copy of the tape to Jan by Thursday, he may not be able to reach anyone and he doesn't want the Commission to be responsible if they don't comply. Jan stated that she thought a member of the Library Board would be in attendance. She noted that she made the request for the tape to the board a week ago, and there is no reason to wait that long for public record. Commissioner Weber stated that a phone call is fine, but the Commission does need something formal to indicate that they have made the request. Jan stated that she is okay with giving the board the letter, but she would like a letter from the Commission to go along with it, indicating that they also have pre-existing concerns.

Commissioner Weber moved that he write a letter regarding the 2003 resolutions, the Commission's concerns, and the requests from Jan, as well as attempt by phone to demand that a copy of the tape be to Jan and the Commission by Thursday at 5:00 p.m. Commissioner Lythgoe

seconded.

DISCUSS AND DECIDE ON NORTH END RID/RMD, INCLUDING APPROXIMATE AMOUNTS TO FORWARD TO BONDING AGENT

Bill stated that he is here to follow up on the RID/RMD. There have been several discussion regarding the fees. He talked to Mae Nan the previous week regarding the means of assessment, indicating that the preferred option is to assess per landowner. However, it doesn't appear that we will be able to do this, by law, as the assessment is on the land, not the landowner. At this point, he would recommend taxable value as a means of assessment. Commissioner Notbohm asked if this is the most common way to do it. Bill stated that it isn't. The most common is per parcel or per lineal foot, but that is not applicable. Commissioner Lythgoe asked if a person has subdivided land into ten parcels and is living on one, the rest being vacant land, if they would consider the tax value of the parcel lived on and the tax value of the bare ground. Bill said it would be a total and percentage.

Commissioner Lythgoe asked Bill to outline the original proposal and how it has changed. Bill stated that the original RID that was proposed was based largely on the infrastructure study. The original proposal was to have two RIDs, one in the South Hills Road area and one in the Jackson Creek Road area. Due to public response, it is the desire of the Commission to delay or re-evaluate the RID in the Jackson Creek Road area, and have the RMD be in the RID #1 area only. He also noted that assessing per landowner is not an option, per statute. Commissioner Lythgoe stated that the cost for the RID is substantially different than what was quoted in the papers. Bill stated that the new estimate is a total of \$387 per year for both the RID and RMD, but noted that this is based on the per landowner assessment, so this will change somewhat. Also, in the RMD, the County will be providing equipment and labor.

Commissioner Notbohm stated that one thing that still concerns him is the part of South Hills Drive in Lewis and Clark County. He asked if there will be a problem assessing for this. Bill stated that they cannot assess out of county, but they can request an encroachment permit to complete the work. Commissioner Notbohm stated that it is a fairness issue with him, and asked if there would be any problems with assessing the monies. Bill stated that they will be equally assessing Jefferson County residents, and noted that all the residents in the area use the road. Commissioner Lythgoe stated that in talking with Dr. Kehr, he believes that he can convince the Lewis and Clark residents to take part in the RID, but then it would be up to Lewis and Clark County to deal with that assessment. Commissioner Notbohm agreed that there are people who will use this as their main access route, that don't live on the road. Bill stated that the RID will be assessing everyone in the area that use the road for ingress/egress, not just those that front the roads, noting that the entire district benefits. Commissioner Weber asked if there has been any discussion with Lewis and Clark County regarding who will maintain the portion of South Hills Drive that is in Lewis and Clark County. Commissioner Lythgoe stated that it will be our responsibility.

Bill stated that after the Commission adopts the Resolution of Intent, it will be mailed out to everyone in the area. There will be a minimum 30-day protest period, followed by a public hearing the last day of the protest period or immediately after. Commissioner Lythgoe asked if

there will be a public hearing before all of this. Bill answered that it is not required by statute. Commissioner Lythgoe asked if it would be a good idea to have a public meeting first. Bill stated that the resolution of intent spells everything out. Commissioner Notbohm stated that it makes sense to follow statute. Commissioner Lythgoe noted that they have indicated all along that they would have a public hearing. Commissioner Notbohm stated that they need to go forward the fastest way possible.

Commissioner Weber suggested that they have Great West figure the assessment per taxable valuation and get these figures to Mae Nan, that they have a conference call with her or have her be at the July 11 meeting to see if they are going in the right direction. After the meeting, have a public hearing pretty much simultaneous with the mailing of the resolution, after which they would hold the statutorily mandated meeting. Commissioner Lythgoe stated that all of the items involving Mae Nan they are doing anyway, but he thinks they want to give the residents a little time. Commissioner Weber asked if the resolution of intent can go out during the same time-frame as the public hearing, rather than a month apart. Bill stated as far as the recommendation to get the tax valuation to Mae Nan before a conference call, yes, but everything else is up to the Commission.

Bill stated, to review, that the assessment will be based on a cost per dollar of taxable value per parcel. Commissioner Lythgoe asked if the resolution will include everyone in the district and what they are assessed. Bill stated that it will probably have to, probably as an attachment. Commissioner Weber noted that Bill needs to get with Ben before he gets the RMD figures to Mae Nan.

Ron Pearson stated that he had one question. He asked if the Commission has ever made a formal request to MDT to consider South Hills Road as a functional class road. Commissioner Lythgoe stated that they have not; every conversation he has had with MDT personnel is that this just won't happen. Ron stated that a phone call won't do; the Commission needs to write a formal request. Commissioner Lythgoe reiterated that this isn't going to happen. Ron asked to be proven wrong. Commissioner Lythgoe stated that he would write the letter, but he knows that nothing will come of it. Ron stated that he wants a formal letter written and to get a written response and then he'll go away. Commissioner Notbohm noted that the state keeps trying to get rid of roads; they aren't accepting them. Ron stated that he has been in and talking to people, and has been assured that this is possible. Commissioner Lythgoe stated that he has tried, but he hasn't written a letter. He agreed to write the letter, but noted that the people that he has been talking to are several pay grades higher than the people that Ron has been talking to, and this isn't going to happen.

Ron stated, regarding how to assess, by linear foot, square footage, taxable value or equal value, that there are a lot of people up there with no frontage on the road. As for taxable value, there is good and bad with that. People with undeveloped land won't have to pay a lot, and their property value will increase with the road improvement. He asked if a petition has been presented to the Commission regarding the RID/RMD, signed by 60% of the landowners. Commissioner Lythgoe answered that they have not, but the residents will be allowed to vote on the resolution of intent. Ron asked where that is allowed in statute. Commissioner Lythgoe

stated that, per their bonding agent, this is an allowable way to do this. Ron stated that he would like to see the statute. Commissioner Lythgoe stated that he doesn't understand Ron's problem with this, as a petition is a very difficult thing to do. This is an easier way to accomplish the same thing. Ron stated that he would like to see all avenues to improve South Hills Road exhausted, and only South Hills Road. He doesn't want to foot the bill for any other road. He would also like to see the statute that provides for anything other than 60% approval on a petition. Bill stated that he will verify that the resolution of intent satisfies the requirements of the petition.

Commissioner Weber stated, regarding the functional class road, that when the County was asked what functional class road we would like to see work done on, we indicated Whitetail Road. The road had to be an existing highway. This road came in number four or number five on the list, and it won't be worked on for several years. He is not against writing the letter, but he doesn't think that it can happen, because this is not an existing highway. Ron stated that the rules governing functional class roads are very complex, but he would just request that the letter be written. Commissioner Lythgoe stated that another issue, not that the state is going to do anything with the road, but it would be at least twelve years before they would do anything.

Commissioner Lythgoe stated that they need to decide to proceed with just phase one and what phase one is and how to assess. Commissioner Weber moved that they move forward with phase one, to include hard surfacing South Hills Road, South Hills Drive and Holmes Gulch to Colonial Drive. Commissioner Lythgoe seconded. The motion carried.

Commissioner Lythgoe moved to request Great West to proceed with the bonding agent to determine the assessment based on taxable valuation. Commissioner Weber seconded. Commissioner Notbohm stated that he wished it could be done differently; it isn't as fair. Ron noted that statute provides four options. Commissioner Lythgoe stated that they needed to pick one. Bill stated that he would strongly advise against linear frontage. Commissioner Lythgoe asked about square footage. Bill stated that this could be a problem if a person owned 100 acres, with no development. Commissioner Notbohm asked if they assessed per parcel, would vacant parcels be assessed less. Bill stated that they are not able to do this, per the bond council. Commissioner Notbohm stated that assessing with taxable value, if your house is worth \$400,000 and his house is worth \$200,000, he would pay half, but they have the same number of cars on the road. He just wishes there was a better way.

The motion carried unanimously.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER